

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CHARLES J. LO GRANDE,	)	
	)	
Plaintiff,	)	8:13CV177
	)	
v.	)	
	)	
DOUGLAS COUNTY DEPT. OF	)	MEMORANDUM AND ORDER
CORRECTIONS, et al.,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court on correspondence received from plaintiff Charles J. Lo Grande, which the Court liberally construes as a motion to waive his filing fee (Filing No. [9](#)). Plaintiff's correspondence states, in part: "I am unable to pay the \$14.00 partial filing fee that you are requesting due to lack of income. [W]ill [you] reply and tell me what my next step would be concerning my complaint?" ([Id.](#))

Under the Prison Litigation Reform Act, an indigent inmate who files a lawsuit in federal court must pay the \$350.00 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the Court in installments. The method for collecting the filing fee from a prisoner is specifically provided for in [28 U.S.C. § 1915\(b\)](#). Section 1915(b) is written in mandatory terms ("shall"), leaving no discretion to the district court to waive an in forma pauperis prisoner's filing fee. Pursuant to [28 U.S.C. § 1915\(b\) \(1\)](#), plaintiff must pay an initial partial filing fee in the amount of

20 percent of the greater of plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint.

Here, plaintiff's trust account statement reflects that his average monthly account balance is \$70.00. (See Filing No. [7](#).) Accordingly, the Court determined that his initial partial filing fee was \$14.00, which is 20 percent of \$70.00. The Court ordered plaintiff to pay his initial partial filing fee by August 19, 2013. (See Filing No. [8](#).)

As set forth above, plaintiff's payment of the \$350.00 filing fee is mandatory, and the Court may not waive his payment of it. However, on its own motion, the Court will grant plaintiff an extension of time in which to pay his initial partial filing fee.

IT IS ORDERED:

1. Plaintiff's motion to waive his filing fee (Filing No. [9](#)) is denied.

2. Plaintiff is granted an extension of time in which to pay his \$14.00 initial partial filing fee. Plaintiff shall pay an initial partial filing fee of \$14.00 by September 20, 2013. If the initial partial filing fee is not received by this date, plaintiff's case will be dismissed.

3. The clerk's office is directed to set a pro se case management deadline in this case using the following text:

**September 20, 2013:** initial partial filing fee payment due.

4. The clerk's office is directed to send a copy of this order to the appropriate official at plaintiff's institution.

DATED this 23rd day of August, 2013.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court

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